

REMARKS

Applicants acknowledge receipt of an Office Action dated March 14, 2006. In this response Applicants have amended claims 1 and 3 to 20 to remove reference numerals and insert the transitional term “comprising”. In addition, Applicants have amended claim 1 to incorporate the subject matter of claim 2. Accordingly, claim 2 has been cancelled without prejudice or disclaimer. Finally, Applicants have added claim 21. Following entry of these amendments, claims 1 and 3-21 are pending in the application.

Reconsideration of the present application is respectfully requested in view of the foregoing amendments and the remarks which follow.

Rejections Under 35 U.S.C. § 102

On page 2 of the Office Action, the PTO has rejected claims 1, 3, 9, 11-13, 16-17, and 20 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 5,560,425 to Sugawara et al. (hereinafter “Sugawara”). In addition, on page 3 of the Office Action, the PTO has rejected claims 1-3, 8-13, 16-17, and 20 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 6,170,567 to Nakada et al. (hereinafter “Nakada”). Applicants respectfully traverse these rejections for the reason set forth below.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP §2131.

Here, Applicants submit that neither Sugawara nor Nakada, disclose a heat exchanger “wherein an outer contour, which represents the end of the respective flat tube, is at least partially matched to an internal contour which represents the collection manifold” as recited in independent claim 1. With particular regard to Sugawara, Applicants note that the contour of Sugawara’s flat tube follows the external contour of the collecting tube and not the internal contour of the collecting tube. Accordingly, neither of these references can properly anticipate claim 1 or any of the claims depending therefrom, and the outstanding §102 rejections ought to be withdrawn.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection under §102.

Rejections Under 35 U.S.C. § 103

On page 3 of the Office Action, the PTO has rejected claims 14 and 15 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sugawara or Nakada in view of U.S. Patent 6,272,881 to Kuroyanagi et al. (hereinafter “Kuroyanagi”). In this response, Applicants have amended claim 1 to incorporate the subject matter of claim 2. Applicants respectfully traverse the outstanding §102 rejections for the reason set forth below.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2143.03.

Here, Applicants submit that neither Sugawara nor Nakada, taken in combination with Kuroyanagi, teaches or suggests a heat exchanger “wherein an outer contour, which represents the end of the respective flat tube, is at least partially matched to an internal contour which represents the collection manifold” as recited in claim 1 from which claims 14 and 15 depend. With particular regard to Sugawara, Applicants note that the contour of Sugawara’s flat tube follows the external contour of the collecting tube and not the internal contour of the collecting tube. Applicants therefore submit that the outstanding rejection under §103 is improper and should be withdrawn.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection under §103.

Newly Added Claim


In this response, Applicants have added claim 21. Support for new claim 21 may be found throughout the present disclosure. Applicants submit that new claim 21 is allowable for at least the same reasons as claim 1 from which it depends.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that all of the pending claims are now in condition for allowance. An early notice to this effect is earnestly solicited. If there are any questions regarding the application, the Examiner is invited to contact the undersigned at the number below.

Respectfully submitted,

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.